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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,428	09/05/2003	John F. Poccia III	J&J 5072 US NP	7571

27777 7590 03/09/2007  
PHILIP S. JOHNSON  
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NEW BRUNSWICK, NJ 08933-7003

EXAMINER
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CHAPMAN, GINGER T

ART UNIT	PAPER NUMBER
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3761

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/09/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/656,428

Applicant(s)

POCCIA ET AL.

Examiner

Ginger T. Chapman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 11 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-13 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### ***Status of the claims***

Claims 1-13 are pending in the application, claims 14-18 of the application are cancelled, claims 11 and 12 are withdrawn from consideration as drawn to nonelected species, claims 1-10 and 13 are examined.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 1 is defined by a fabric having a density from about 0.01 g/cc to 0.05 g/cc.

Claim 1 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a wound contacting pad, does not reasonably provide enablement for all nonwoven fabrics either presently existing or which might be discovered in the future and which would impart the desired characteristic, i.e., having a density from about 0.01 g/cc to 0.05 g/cc. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims.

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The claim purports to cover every nonwoven material having a density of 0.01 to 0.05 g/cc; thus the claim is also too broad since it appears to read upon materials that could not possibly be used to accomplish purposes intended. *Ex parte Slob* (Bd. Pat. App. & Int 1968) 157 USPQ 172; *Austenal Laboratories, Incorporated v. Nobilium Processing Company of Chicago et al.*, 115 USPQ 44 (D.C. N. Ill. 1957).

### *Claim Rejections - 35 USC § 103*

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-2, 5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruffo (US 3,523,536) in view of Ryan et al (US 5,019,062).

With regard to claim 1, Ruffo discloses an absorbent article (figs. 1 and 2) comprising an absorbent nonwoven fabric (20) comprising fibers (c. 4, l. 55), and having a density from about 0.01 g/cc to 0.05 g/cc (c. 4, l. 4), said nonwoven fabric (20) having a first major surface and a second major surface (c. 3, l. 38; fig. 2); and a film (24) secured to at least one major surface.

Ruffo discloses the invention substantially as claimed except for the film being apertured. Ruffo, at c. 3, ll. 40-55, expresses the desire for a wound contacting pad that is breathable. Ryan et al, at c. 2, l. 63 teaches the suitability of absorbent articles for wound contacting pads and, at c. 3, ll. 10-20 teaches the ability of an apertured film to provide a breathable yet dry surface against a wearer's skin without irritation. As seen in Figure 1, Ryan teaches an apertured film (10) secured to at least one major surface of a nonabsorbent fabric (10') comprising fibers. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was

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made to form the film of Ruffo apertured as taught by Ryan since there is no change in it's respective function and Ryan states at c. 2, ll. 50-55 and c. 3, ll. 19-20, that the benefit of forming the article with such a design is that it is suitable for absorbing bodily fluids, of wound which exudates comprise, while remaining dry and nonirritating to the skin of the wearer thereby providing a more sanitary less irritating absorbent article.

With regard to claim 2, Ruffo discloses rayon and wood pulp fibers and combinations thereof (c. 4, ll. 56-63).

With regard to claim 5, Ryan discloses the apertured film comprises a polymeric material selected from the group consisting of polyethylene, polypropylene, and copolymers thereof.

With regard to claim 9, Ruffo discloses a top layer (22).

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruffo and Ryan as applied to claims 1 above, and further in view of Pike et al (US 6,352,948).

With regard to claims 3 and 4, Ruffo discloses the nonwoven fabric comprises a blend of fibers but does not disclose the claimed ratio of blended fibers. Pike, at c. 1, ll. 19-45, expresses the desire to control the flow of exudates in surgical nonwovens articles (c. 5, ll. 33-40). As seen in Figure 1, Pike et al disclose an absorbent article (10) comprising: an absorbent nonwoven fabric (12), apertured film (14) wherein the fibers comprising the nonwoven fabric are bicomponent fibers (col. 6, l. 63 and col. 3, ll. 41-42) as recited in claim 3; and the nonwoven fabric (12) comprises a blend (col. 4, l. 9) of from about 70% to about 95% by weight of synthetic non-absorbent fibers and from about 5% to about 30% by weight of absorbent fibers (col. 3, ll. 56-58) and has a basis weight ranging from about 30 gsm to about 150 gsm (col. 6, ll.

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38-39) as recited in claim 4. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the fibers of Ruffo as bicomponent fibers of the claimed basis weight and ratio since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruffo and Ryan as applied to claims 1 and 9 above, and further in view of Hanssen et al (US 5,589,256).

With regard to claims 6 and 13, Ruffo discloses wound contacting pads but does not expressly disclose wound contacting pads for adhesive bandages. Hanssen, at c. 43, ll. 45-60 teaches the desirability of adhesively mounting a wound contacting pad for an adhesive bandage in place so that the wound-contacting pad can absorb blood from a wound. As seen in Figure 4, Hanssen teaches an adhesive bandage. Therefore it would have been obvious to one having ordinary skill in the art to form the wound contacting pad of Ruffo for an adhesive bandage as taught by Hanssen since Hansen states at c. 45-60 that benefit of forming the pad with this design is that it is desirable to adhesively mount the pad in to absorb blood and other bodily fluids from a wound as is well known in the bandage art.

With regard to claims 7 and 8, Ryan teaches the open area of the apertured film ranges from about 5 percent to about 30 percent of the total area (c. 7, ll. 13-14).

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ruffo and Ryan as applied to claim 9 above, and further in view of Sheth et al (US 4,777,073).

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With regard to claim 10, the Ruffo as modified by Ryan teach the apertured film but does not expressly disclose the film is microporous. Ryan at c. 3, l. 15 expresses the desire for the surface of the apertured film in contact with the wearer's skin to remain dry. Sheth, at c. 7, ll. 2-4 teaches the desirability of apertured films to be breathable and therefore desirable for wound contacting pads. As described in examples 2-5 (c. 5, ll. 39-53), Sheth teaches microporous films for adhesive bandages and wound contacting pads. The instant specification discloses at p. 10, ll. 4-29 that it is the incorporating of filler particles into a polymer before the material is stretched into film that renders the film microporous as is known in the art since microporous films are known and manufactured commercially. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the film of Ryan microporous as taught by Sheth since Sheth states at c. 6, ll. 66-68 that such films are suitable for medical and surgical applications such as wound contacting bandages.

### *Response to Arguments*

Applicant's arguments with respect to claims 1-10 and 13 have been considered but are moot in view of the new ground(s) of rejection.

### *Conclusion*

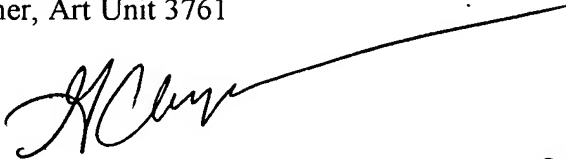
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ginger T. Chapman whose telephone number is (571) 272-4934. The examiner can normally be reached on Monday through Friday 9:30 a.m. to 6:00 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ginger Chapman  
Examiner, Art Unit 3761  
3/5/07



TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER

